
State Water Resources Control Board

SUPPLEMENTAL NOTICE OF PUBLIC HEARING

The State Water Resources Control Board
Administrative Hearings Office
will hold additional hearing days for its
public hearing to determine whether to prepare
a proposed cease-and-desist order to

BlueTriton Brands, Inc.
(successor by name change to Nestlé Waters North America, Inc.)

on the draft Cease and Desist Order
issued by the State Water Resources Control Board,
Division of Water Rights, Permitting and Enforcement Branch,
on April 23, 2021.

**The Public Hearing on additional evidence will
be held on May 23-24, 2022, beginning each day at 9:00 a.m.**

The hearings will be held by Zoom teleconference.

To participate, please use the following link:

<https://waterboards.zoom.us/j/97116503192?pwd=NjBnT3B5V2wwbGlrcXdoWIN3RmcyQT09> with Meeting ID: 971 1650 3192 and Passcode: 967163

or by calling in at:

+16699009128,,97116503192#,,,,*967163# US (San Jose)

**To observe without participating, please access the
Administrative Hearings Office YouTube channel:**

<https://www.youtube.com/channel/UCM-gmipRyd7Nw-g8l-C7Nig/videos?view=57>

BACKGROUND

The purpose of this hearing, background information, hearing issues and other hearing information are discussed in the Notice of Second Pre-Hearing Conference and Public Hearing, issued by the Administrative Hearings Office (“AHO”) on November 17, 2021. That information is not repeated here. The AHO held public hearing days on January 10-14 and 31, February 1-2, March 21-24, and April 25-27, 2022. The AHO held a site visit on February 16-17, 2022.

NEW HEARING DATES AND NEW EXHIBIT SUBMISSION DEADLINES

The AHO will hold a hearing on May 23-24, 2022, to receive the following additional evidence:

- (1) testimony of Mark Nicholls in rebuttal to testimony presented by parties besides BlueTriton Brands, Inc. (“BlueTriton”) during the April 25-27, 2022, hearing;
- (2) testimony of Greg Allard in rebuttal to testimony presented by Mr. Nicholls during the April 25-27, 2022, hearing (to be submitted by either Story of Stuff Project or Amanda Frye);
- (3) testimony of a BlueTriton witness to establish the foundation for, and to authenticate, exhibit BTB-40; and
- (4) testimony of Mr. Nicholls in rebuttal to the written proposed testimony to be filed by Mr. Allard.

The parties shall submit this written proposed testimony and any exhibits cited in the written proposed testimony by the following deadlines:

- for categories (1), (2) and (3) above, by **May 16, 2022, at 1:00 pm**;
- for category (4) above, by **May 19, 2022, at 1:00 pm**.

Each part of the new written proposed testimony for categories (1) and (2) above shall specify the previously submitted sur-rebuttal testimony, with citations to exhibit numbers, pages and paragraphs or line numbers, that is being rebutted.

The written proposed testimony shall not exceed the following page limits (with double-spaced text):

- for category (1) above, 15 pages,
- for category (2) above, 5 pages,
- for category (3) above, 2 pages, and
- for category (4) above, 5 pages.

Parties shall follow all the rules for submission of exhibits that are stated in the November 17, 2021, notice for their submissions of the additional written proposed testimony and related exhibits. Rather than updating previously submitted exhibit indices, parties shall submit new exhibit identification indices (in the Excel format specified in the November 17, 2021 hearing notice for exhibit lists) that list only the parties' new exhibits. Each party shall number the party's new exhibits with numbers that begin one number after the highest number of the party's previously submitted exhibits.

During the May 23-24 hearing, each party will be allowed a maximum of 15 minutes for the party's witness to summarize his testimony, and each other party will be allowed a maximum of 15 minutes to conduct cross-examination. For good cause, the hearing officer may allow additional time for cross-examination. Cross-examination of witnesses offering new testimony will be limited to the scope of the new testimony and exhibits.

Except as expressly stated in this notice, all provisions of the November 17, 2021 notice remain in effect.

April 27, 2022
Date

/s/ ALAN B. LILLY
Alan B. Lilly
Presiding Hearing Officer

Enclosure:
-Service List

SERVICE LIST

Representatives of participating parties:

Kenneth Petruzzelli
John Prager
Office of Enforcement, State Water
Resources Control Board
801 K St., 23rd Floor
Sacramento, CA 95814
Kenneth.Petruzzelli@Waterboards.ca.gov
John.Prager@Waterboards.ca.gov
*Attorneys for Division of Water Rights
Prosecution Team*

Robert E. Donlan
Christopher M. Sanders
Shawnda M. Grady
Hih Song Kim
Patty Slomski
Ellison Schneider Harris & Donlan L.L.P.
2600 Capitol Avenue, Suite 400
Sacramento, California 95816
red@eslawfirm.com
cms@eslawfirm.com
sgrady@eslawfirm.com
ps@eslawfirm.com
HihSong.Kim@waters.nestle.com
Attorneys for BlueTriton Brands

Rita P. Maguire
P.O. Box 60702
Phoenix, Arizona 85082
rmaguire@azwaterlaw.com
Attorney for BlueTriton Brands

Nancee Murray
Kathleen Miller
P.O. Box 944209
Sacramento, CA 94244-2090
nancee.murray@wildlife.ca.gov
kathleen.miller@wildlife.ca.gov
*Attorneys for California Department of
Fish and Wildlife*

Steve Loe
33832 Nebraska St.
Yucaipa, CA 92399
steveloe01@gmail.com

Meredith E. Nikkel
Samuel E. Bivins
Holly E. Tokar
Downey Brand LLP
621 Capitol Mall, 18th Fl.
Sacramento, CA 95814
mnikkel@downeybrand.com
sbivins@downeybrand.com
htokar@downeybrand.com
*Attorneys for San Bernardino Valley
Municipal Water District*

Rachel Doughty
Christian Bucey
Jessica Taylor
Michael O'Heaney
Erica Plasencia
Paul Kibel
Story of Stuff Project
Greenfire Law, PC
P.O. Box 8055
Berkeley, CA 94704
rdoughty@greenfirelaw.com
cbucey@greenfirelaw.com
jtaylor@greenfirelaw.com
michael@storyofstuff.org
eplasencia@greenfirelaw.com

Laurens H. Silver, Esq.
PO Box 667
Mill Valley, CA 94942
larrysilver@earthlink.net
Attorney for Sierra Club

Ross Middlemiss
Lisa Belenky
1212 Broadway, Suite 800
Oakland, CA 94612
rmiddlemiss@biologicaldiversity.org
lbelenky@biologicaldiversity.org
*Attorneys for Center for Biological
Diversity*

Hugh A. Bialecki, DMD
Save Our Forest Association, Inc.
PO Box 2907
Blue Jay, CA 92317
habialeckidmd@gmail.com

People submitting only policy statements:

Kristopher Anderson, Esq.
Association of California Water
Agencies
980 9th St. Suite 1000
Sacramento, CA 95814
krisa@acwa.com

Jennifer Capitolo
California Water Association
601 Van Ness, Suite 2047
San Francisco, CA 94102
jcapitolo@calwaterassn.com

David J. Guy
Northern California Water Association
(NCWA)
455 Capitol Mall, Suite 703
Sacramento, CA 95814
dguy@norcalwater.org

Henry A. Frye
387 Flanders Road
Coventry, CT 06238
henryfrye6@gmail.com

Amanda Frye
12714 Hilltop Drive
Redlands, CA 92373
amandafrye6@gmail.com

Jody Isenberg
League of Women Voters of the San
Bernardino Area
P.O. Box 3925
San Bernardino, CA 92413
betsy.starbuck@gmail.com
jodyleei@aol.com
watermarx55@hotmail.com

Mary Ann Dickinson
P.O. Box 5404
Blue Jay, CA 92317
maryann@a4we.org

Steve Loe
Southern California Native Freshwater
Fauna Working Group
33832 Nebraska St.
Yucaipa, CA 92399
steveloe01@gmail.com

Anthony Serrano
7517 Mt. McDuffs Way
Highland, CA 92346
anthonyaserrano@gmail.com

People who have asked to be on service list:

Joshua S. Rider
Staff Attorney
Office of the General Counsel, USDA
joshua.rider@usda.gov

Joe Rechsteiner
District Ranger-Front Country Ranger District
San Bernardino National Forest
joseph.rechsteiner@usda.gov

Robert Taylor
Forest Hydrologist
San Bernardino National Forest
robert.taylor2@usda.gov